



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 98-12-25

Action on IATA Agreement
Issued by the Department of Transportation
on the 22nd day of December, 1998

----- Served Dec, 24, 1998
Agreements adopted by the Tariff : Docket OST-98-4542
Coordinating Conferences of the : R-1 through R-8
International Air Transport Association : Docket OST-98-
4543
relating to TC12 U.S. Passenger Fares : R-1 and R-2

ORDER

Various members of the International Air Transport Association (IATA) have filed agreements with the Department under section 41309 of Title 49 of the United States Code (U.S.C.) and Part 303 of the Department's regulations. The agreements were adopted at the TC12 Passenger Tariff Coordinating Conference held in Montreal September 16-18, 1998, and by mail vote. 1/

The agreement in Docket OST-98-4542 reduces fares from Bahrain, Egypt, Oman, Qatar, Kuwait, and the United Arab Emirates to Area 1 North Atlantic markets by three or five percent to reflect disapproval by the respective governments of fare increases proposed in the last agreement. 2/ Children's fares were also reduced as a percentage of normal and excursion fares from Egypt and Kuwait following government disapproval, and shoulder season special fares were deleted from Bahrain, Kuwait, Oman, Qatar, and the United Arab Emirates (with consequential amendments to seasonal periods).

The agreement in Docket OST-98-4543 amends the construction rules for group and individual fares for ships= crews to remove a restriction that limited the construction of unspecified through fares to/from South Africa.

1/ IATA memoranda PTC12 NMS-ME 0064 (Docket OST-98-4542), and COMP Telex Mail Vote 957 (Docket OST-98-4543). Both items were filed with the Department on October 5, 1998.

2/ Order 98-4-1, issued April 1, 1998, for material filed in Docket OST-98-3320, IATA memoranda PTC12 NMS-ME 0036 and PTC12 NMS-ME 0037.

We will approve the agreements. Based on our review of the information submitted and other relevant material, we conclude that the agreements, as conditioned, will not result in fares that are unlawful or injurious to competition in the markets at issue. 3/

Several resolutions in Docket OST-98-4542 containing reductions to normal fares, or changes to their conditions, have been submitted to us for approval where there is no direct service in any of the affected U.S. markets. For these markets we will not impose our standard conditions holding the proposed normal economy fares to regulatory ceilings based on the Standard Foreign Fare Level (SFFL). 4/

Where direct service does exist, however, our review indicates that while the agreement in Docket OST-98-4542 may reduce the direct-service economy fares previously adopted by IATA, 5/ those fares are still above SFFL plus upward fare flexibility. 6/ Under these circumstances, and for administrative purposes, we will continue to require that each carrier, when filing tariffs implementing the agreement, provide a comparison of its proposed direct-service normal economy fares against the Department's SFFL ceiling levels.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find that the resolutions set forth in the Attachment, and which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, provided that

3/ Approval does not affect the restrictions regarding the sale in the U.S. of transportation by air with a stop in Libya (Order 86-2-23), or of any transportation by air on Syrian Arab Airlines (Order 86-11-30).

4/ See, for example, Orders 89-4-42, April 18, 1989, and 88-4-5, April 1, 1988.

5/ We generally exercise regulatory control over point-to-point economy fares, generally defined as ~~A~~unbundled~~@~~ or ~~A~~restricted~~@~~ fares, and, in markets where they are unavailable, the unrestricted economy fares.

6/ For example, a three percent reduction to current IATA economy class fares from Kuwait City to New York would result in an economy class fare of 360 Dinar, whereas the current regulatory ceiling is 322 Dinar (\$1,066 at 3.3156 Dollar/Dinar).

each IATA carrier submits, at the time of filing and for comparative purposes, the SFFL base fares, its proposed direct-service economy fares, and the percentages by which

its proposed direct-service economy fares differ from the SFFL base levels for each market for which it files revised direct-service economy fares;

2. We do not find that the resolution in Docket OST-98-4542, as set forth below and which has indirect application in foreign air transportation, is adverse to the public interest or in violation of the Code;

Docket OST-98-4542

TC12 North Atlantic - Africa

Resolution	Description
— R-6; 070rr	Excursion Fares Between Canada and Cyprus, Egypt, Jordan, Lebanon, Syria

3. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral is mandatory under the Code.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreements in Dockets OST-98-4542 and OST-98-4543, as set forth in finding paragraphs 1 and 2 above, subject to previous conditions imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Dockets OST-98-4542 and OST-98-4543, as set forth in finding paragraphs one and two above, subject to the conditions imposed therein.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the service date of this order.

This order shall be effective and become the action of the Department of Transportation upon the expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Aviation and International Affairs gives notice that he will review this order on his own motion.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)

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Resolutions With Direct Application In
Foreign Air Transportation, Docket OST-98-4542

PTC12 NMS-ME 0064B- North Atlantic-Middle East

<u>Resolution</u>	<u>Description</u>
R-1; 002x	Special Amending Resolution (New)
R-2; 044b	Intermediate Class Fares (Amending)
R-3; 054b	First Class Fares (Amending)
R-4; 064b	Economy Class Fares (Amending)
R-5; 070mm	Excursion Fares Between Canada, Mexico, USA And Middle East (Amending)
R-7; 084mm	GIT Fares Between Mexico, USA, And Middle East (Amending)
R-8; 092mm	Youth Fares Between Canada, Mexico, USA And Middle East (Amending)

Resolutions With Direct Application In
Foreign Air Transportation, Docket OST-98-4543

PTC2/3/23/123 (Mail 957)-- Composite Resolutions

PTC1/2/3/12/23/31/123 (Mail 957)-- Composite Resolutions

<u>Resolution</u>	<u>Description</u>
R-1; 087aa	Group Fares For Ships= Crews (Amending)
R-2; 090	Individual Fares For Ships= Crews (Amending)